

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

IN RE: PRADAXA (DABIGATRAN
ETEXILATE) PRODUCTS LIABILITY
LITIGATION

)
) **3:12-md-02385-DRH-SCW**
)
) **MDL No. 2385**
)

This Document Relates to:

ALL CASES

**CASE MANAGEMENT ORDER 55
(APPOINTMENT OF SUBSTITUTE SPECIAL MASTER)**

I. INTRODUCTION

This matter is before the Court for case management. The parties have requested that the Court appoint the Honorable James Donovan (Ret.) to serve as a substitute special master for depositions - when the parties agree and when Special Master Dan Stack is unavailable. The request is GRANTED. The Court hereby **APPOINTS** the Honorable James Donovan (Ret.) to serve as a substitute special master for depositions (when the parties agree and when Special Master Dan Stack is unavailable) in accordance with the below-stated parameters and procedures.

1. *Appointment*

- A. The Honorable James Donovan (Ret.) is appointed under Rule 53 as Substitute Special Master, when the parties agree and when Special Master Dan Stack is unavailable, for the purpose of mediating and, if necessary, issuing preliminary suggested rulings on disputes that may arise during the course of corporate

depositions.

2. Parameters

When presiding over a deposition, the following parameters shall apply:

A. Procedures. The Substitute Special Master shall have the rights, powers, and duties provided in Rule 53, and may adopt such procedures as are consistent with that Rule or with this or other Orders of the Court. The Substitute Special Master shall endeavor first to mediate a resolution to disputes that may arise. Should mediation fail to result in an agreed upon resolution, the Substitute Special Master shall make preliminary rulings that, at the election of any party, may be referred to this Court, in the first instance, and to the State Court Judges overseeing coordinated state court proceedings, secondarily. If judicial review of the Substitute Special Master's suggested preliminary rulings is required, the parties shall bring their disputes to the Court and the State Court Judges pursuant to the procedures set forth in Case Management Order Nos. 8 and 13.

B. Fees and Expenses. The Substitute Special Master will be paid \$400 per hour for working time and \$100.00 per hour for travel time. In addition, the Substitute Special Master shall receive reimbursement for other reasonable travel and other expenses incurred by the Substitute Special Master. The fees and expenses of the Special Master are to be divided evenly between the parties. The Substitute Special Master may employ other persons to provide clerical and secretarial assistance; such persons shall be under the supervision and control of the Substitute Special Master, who shall take appropriate action to ensure

that such persons preserve the confidentiality of matters submitted to the Substitute Special Master for review.

C. *Objections.* Clearly, Substitute Special Master Donovan's role is not to make rulings but to mediate disputes and then direct the parties to contact the undersigned if his efforts fail. However, in this regard, the parties are **DIRECTED** by this Court in this fashion:

FEDERAL RULE OF CIVIL PROCEDURE 30 must be adhered to and objections must be concise, nonargumentative and nonsuggestive (meaning not directed to suggest anything to the witness). Furthermore, objections to form must state in one word the deficiency with the form, such as "Objection as to form: compound." Or, "Objection as to form: leading." Objections as to form must not be made without a good faith basis. A pattern of a failure to state the deficiency will be taken by this Court as a factor in a consideration that such objections are being made only to harass and not to preserve a valid objection. In that event, the Court will consider appropriate sanctions, even if on its own motion. Furthermore, either prior to or at the start of the depositions witnesses shall be instructed that when they hear an objection being verbalized they should give time for it to be stated and then proceed with their answer unless otherwise instructed. Thereafter, the instruction to answer the question shall not be repeated unless the witness fails to proceed with an answer.

D. *Distribution.* A copy of this Order shall be mailed by the Clerk to the Substitute Special Master.

SO ORDERED:

 Digitally signed by
David R. Herndon
Date: 2014.01.27
14:43:58 -06'00'

**Chief Judge
United States District Court**

Date: January 27, 2014